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CWA NOTICE OF INTENT

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April 26, 2017

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**RETURN RECEIPT REQUESTED**

17 MAY -4 P4:00

DEPT. OF JUSTICE  
ENVIRONMENT DIVISION



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**Re: Notice of Violation and Intent to File Suit Under the Federal Water Pollution Control Act**

**To Whom It May Concern:**

I am writing on behalf of the Committees for Land, Air, Water and Species ("CLAWS") regarding violations of the Clean Water Act<sup>1</sup> ("CWA" or "Act") and California's General Industrial Storm Water Permit<sup>2</sup> occurring at the Lompoc Corporate Yard facility owned and operated by City of Lompoc ("Lompoc" or "City") at 1300 West Laurel Avenue in Lompoc California ("Yard" or "Facility"). This communication ("Notice Letter") is prepared pursuant to the CWA, 33 U.S.C. §§ 1365(a) and (b), and is sent to you and Lompoc as the responsible owners and/or operators of the Facility in order to: 1) detail violations of the Act and General Industrial Permit occurring at the Yard; and b) provide formal notice that CLAWS intends to file a federal enforcement action against the City for violations of Sections 301 and 402 of the Act, 33 U.S.C. §§ 1311, 1342.

<sup>1</sup> Federal Water Pollution Control Act 33 U.S.C. § 1251 *et seq.*

<sup>2</sup> National Pollution Discharge Elimination System ("NPDES") General Permit No. CAS000001, Water Quality Order No. 92-12-DWQ, Order No. 97-03-DWQ, as amended by Order No. 2014-0057-DWQ. Between 1997 and June 30, 2015, the General Industrial Permit in effect was Order No. 97-03-DWQ ("1997 Permit"), which as of July 1, 2015, was superseded by Order No. 2014-0057-DWQ ("2015 Permit"). CLAWS may herein refer to the two versions interchangeably as the "General Industrial Permit" or "Permit." As explained herein, the 2015 Permit and the 1997 Permit contain the same fundamental requirements and implements the same statutory mandates.

## **I. Background**

### **A. Committees for Land, Air, Water and Species**

CLAWS is a non-profit public benefit corporation organized under the laws of California and operating in Santa Barbara County, California. Incorporated in 2014, CLAWS is a bold advocate for social and environmental justice. The organization's mission is, *inter alia*, to advocate for and protect the people and natural resources of California's Central Coast region. The organization works to achieve its goals through a synergy of education, outreach, organizing, litigation and regulatory programs that ensure the preservation, protection, and defense of the Central Coast region's natural and human communities.

Where necessary to achieve its objectives, CLAWS directly initiates enforcement actions under the Act on behalf of itself and its members. CLAWS' members use the Pacific Ocean, connected waterways and beaches to fish, surf, swim, sail, SCUBA and free dive, kayak, bird watch, view wildlife, hike, bike, walk, and run. The unlawful discharge of pollutants from the Facility into local waters impairs the ability of CLAWS' members to use and enjoy these waters. Thus, CLAWS' interests have been, are being, and will continue to be adversely affected by the Facility's failure to comply with the Act and Permit.

### **B. The Clean Water Act**

The objectives of the Act are to "restore and maintain the chemical, physical and biological integrity of the Nation's waters." 33 U.S.C. §§ 1251(a), 1311(b)(2)(A). To this end, the Act prohibits the discharge of pollutants from any point source into waters of the United States except in compliance with other requirements of the Act, including Section 402, which provides for NPDES permits. 33 U.S.C. §§ 1311(a), 1342(p), 40 C.F.R. § 122.26(c)(1). In California, the United States Environmental Protection Agency ("EPA") has delegated authority to issue NPDES permits to the State Water Resources Control Board ("State Board"). 33 U.S.C. §§ 1342(b), (d). The Central Coast Regional Water Quality Control Board ("Regional Board" or "RB3") is responsible for issuance and enforcement of the Permit in Region 3, which covers the Facility.

Section 505 authorizes citizens to file suit in federal court against facilities alleged to be in violation of the Act and/or related permits. 33 U.S.C. § 1365(a). Section 505(b) of the Act requires citizens to give notice to alleged violators at least sixty (60) days before initiating civil action under Section 505(a). 33 U.S.C. § 1365(b). Notice must be given to the alleged violator(s), the EPA Administrator, the Regional Administrator of EPA, the Executive Officer of the water pollution control agency in the State in which the alleged violations occur, and, if the violator is a corporation, the registered agent of the corporation. 40 C.F.R. § 135.2(a)(1).

Unless Lompoc takes appropriate action to remedy ongoing violations of the Act, CLAWS will file suit in U.S. District Court following the expiration of the 60-day notice period on June 26, 2017. In that action, CLAWS will seek civil penalties, injunctive relief, fees and costs. Lompoc is subject to civil penalties for all violations of the Act occurring at the Facility

since April 26, 2012.<sup>3</sup> Each separate violation of the Act subjects the violator to a penalty of up to \$51,570 per day for violations occurring after November 2, 2015; and up to \$37,500 per day per violation for violations occurring prior to and including November 2, 2015. *See* 33. U.S.C. §§ 1319(d) and 1365(a); 40 C.F.R. § 19.4.

### C. The Facility

According to filings with the State of California, the Waste Discharger Identification (“WDID”) number under which the Yard is registered is 3 42I001464. The Notices of Intent to Comply With the Terms of the General Permit to Discharge Storm Water Associated with Industrial Activity (“NOI”) filed with the State Board and Regional Board on June 23, 1997 and June 17, 2015, along with various other Facility filings (e.g. Annual Report 2013-14), certifies that the Facility is categorized under the Standard Industrial Classification (“SIC”) 4212 and the regulated industrial activity is “Local Trucking Without Storage.” The NOI filed on March 17, 1992 certifies that the Facility is a “Yard and Garage” categorized under SIC code 9199, with industrial activities including material handling, material storage, vehicle maintenance and vehicle storage.

According to information available to CLAWS, the Facility is approximately 7 acres, 93% of which is impervious, and virtually the entire site is exposed to storm water. “The Corporate Yard operates seven (5) days a week, from 6:30 to 16:00.”<sup>4</sup> The City’s NOI describes the Facility’s industrial operations as “consist[ing] of all activities required to operate a Corporate Yard.”<sup>5</sup> According to information and belief, the specific industrial activities occurring onsite include, but may not be limited to, the following:

- Electric Department - vehicle storage
- Purchasing - receiving goods and storage
- Facilities Management - general facility repair of equipment and materials
- Streets Department - storage of road base and asphalt /concrete materials and machinery, striping machine, paint, etc.
- Parks Department - propagation and storage of plants, and plant materials
- Fleet Department - vehicle repair, wash, and garage services.
- Urban Forestry - storage of trees, tree planting, and trimming equipment
- Transit - vehicle storage and bus wash
- Police - trailer and specialty equipment storage.

The Facility is also the site of Leaking Underground Storage Tank (LUST) Cleanup Site Case No. 3092.

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<sup>3</sup> Lompoc is liable for violations of both the 1997 Permit and ongoing violations of the 2015 Permit. *See Illinois v Outboard Marine, Inc.* 680 F.2d 473, 480-81 (7th Cir. 1982) (granting relief for violations of an expired permit); *Sierra Club v Aluminum Co of Am.*, 585 F. Supp. 842, 853-54 (N.D.N.Y. 1984) (holding that the Clean Water Act’s legislative intent and public policy favor allowing penalties for violations of expired permits); *Pub. Interest Research Group of N.J. v Carter Wallace, Inc.* 684 F. Supp. 115, 121-22 (D.N.J. 1988) (holding that limitations of an expired permit, when transferred to a newly issued permit, are viewed as currently in effect for enforcement purposes).

<sup>4</sup> City of Lompoc Corporate Yard Storm Water Pollution Prevention Plan (June 2015), Section 2, para. 2.1.2.

<sup>5</sup> *Id.* at para. 2.2.

D. Receiving Waters

According to the Facility's Storm Water Pollution Prevention Plan ("SWPPP"), "Lompoc is located at the downstream end of the Santa Ynez River's watershed. This watershed is very large and its uses primarily include open space, agriculture, and a limited amount of rural and urban development. Lompoc is also located on the downstream end of San Miguelito Creek, which flows from Santa Barbara County's jurisdiction into Lompoc on its south side, travels through Lompoc in a concrete trapezoidal channel and joins the Santa Ynez River just west of Lompoc. Lompoc's primary storm drains and its Wastewater Reclamation Plant discharge into San Miguelito Creek. For the purposes of [the Permit,] the City's receiving water is San Miguelito Creek.

"San Miguelito Creek's Watershed [...] is rural in nature. The largest influences in Miguelito Canyon are Celite's diatomaceous earth mining operation in the lower portion of the watershed and a number of private cattle ranches in the upper reaches of the watershed. There are also a limited number of single-family homes on larger lots at the mouth of Miguelito Canyon and a rural County Park in its lower reaches. Vandenberg Air Force Base property adjoins the watershed. The Miguelito Creek Watershed is almost exclusively within the County of Santa Barbara's jurisdiction. Within the County's jurisdiction, the Creek is unlined. When it reaches the valley floor and the City of Lompoc, it flows into a retention basin and from there is discharged into a concrete trapezoidal channel which conveys the creek through the City of Lompoc to the Santa Ynez River. The majority of Lompoc's storm water drains into the concrete "V" Street channel at the lowest portion of the watershed, before it discharges into the Santa Ynez River.<sup>6</sup>

"The Yard discharges to the San Miguelito Creek at the V Street Channel,"<sup>7</sup> which flows to the Santa Ynez River, where it runs for approximately ten (10) miles before entering the Santa Ynez River Estuary and into the Pacific Ocean at the Vandenberg State Marine Reserve (collectively "Receiving Waters"). According to the 2012 303(d) List of Impaired Water Bodies, the Receiving Waters are listed as impaired for chlorine, sodium, temperature and pH.<sup>8</sup>

The Receiving Waters are ecologically, economically, and socially significant resources on which Central Coast communities depend. The Regional Board identifies beneficial uses of the Receiving Waters and establishes water quality standards in the *Water Quality Control Plan for the Central Coast Basin* (March 2016 Edition) ("Basin Plan"). The beneficial uses of the Receiving Waters include, but may not be limited to, Municipal and Domestic Supply (MUN), Agricultural Supply (AGR), Ground Water Recharge (GWR), Water Contact Recreation (REC1), Non-Contact Water Recreation (REC2), Warm Fresh Water Habitat (WARM), Cold Fresh Water Habitat (COLD), Wildlife Habitat (WILD), Spawning, Reproduction and/or Early Development Habitat (SPWN), Commercial and Sport Fishing (COMM), Industrial Process Supply (PRO), Industrial Service Supply (IND), Migration of Aquatic Organisms (MIGR), Rare, Threatened, or

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<sup>6</sup> CITY OF LOMPOC STORM WATER MANAGEMENT PROGRAM (DRAFT)(September 2008 - September 2013) Section 1, para. 1.1.2 at page 7.

<sup>7</sup> *Id.*

<sup>8</sup> 2012 Integrated Report – All Assessed Waters, available at: [http://www.waterboards.ca.gov/water\\_issues/programs/tmdl/integrated2012.shtml](http://www.waterboards.ca.gov/water_issues/programs/tmdl/integrated2012.shtml) (last accessed on 3/31/2017).

Endangered Species (RARE), Preservation of Biological Habitats of Special Significance (BIOL), Estuarine Habitat (EST), Shellfish Harvesting (SHELL), and Marine Habitat (MAR).

Although pollution and habitat destruction have drastically altered the natural ecosystem, the Receiving Waters are still essential habitat for dozens of fish and bird species, as well as macro-invertebrate and invertebrate species. The public, both tourists and residents alike, make extensive use of the Receiving Waters for water contact sports, fishing, non-contact recreational, and aesthetic opportunities, such as wildlife observation, and sunbathing. The Receiving Waters ebb and flow in the bed of San Miguelito Creek, the Santa Ynez River and the Santa Ynez Estuary. Polluted discharges from the Facility enter the Receiving Waters and are deposited on the banks, vegetation, shoreline and soils of the Creek, River and Estuary, where the water evaporates and the polluted discharges become aerosols and/or attach to particulate matter that are each entrained in the air from strong locally-prevalent winds and which then expose residents of Lompoc and the Santa Ynez Valley in the form of air pollution. Polluted discharges from the Facility expose many people to contaminants that threaten public health and welfare, and impair natural ecosystems that depend on the Receiving Waters. Polluted storm water and non-storm discharges harm the special aesthetic, economic and recreational significance the Receiving Waters have for the public, including CLAWS' members.

## **II. Storm Water Permitting and Enforcement**

### **A. Storm Water Permitting**

The Act prohibits any discharges of storm water associated with industrial activities (and authorized non-storm water discharges) that have not been subjected to Best Available Technology Economically Achievable ("BAT") for toxic<sup>9</sup> or non-conventional pollutants, and Best Conventional Pollution Control Technology ("BCT") for conventional pollutants<sup>10</sup> (33 U.S.C. §§ 1311(b)(2)(A), (B)). However, regulators recognize the strain that strict application of the statutory standard would impose on industry, as well as the practical challenge of defining and enforcing the standard.

Thus, rather than requiring the specific application of BAT or BCT techniques to each individual discharge of storm water, the State Board created a far more flexible program under which compliance with the terms of conditions of the General Industrial Permit serves as a proxy for compliance with the Act. *See e.g.* 1997 Permit, Finding 10. Compliance with the General Industrial Permit, therefore, constitutes compliance with the Act for purposes of storm water discharges. 33 U.S.C. §§ 1311(b)(2)(A), 1311(b)(2)(E). Conversely, failures to comply with the Permit's terms and conditions constitute violations of the Act. *See* 1997 Permit, Section C(1); *see also* 2015 Permit, Section XXI(A).

In order to comply with the statutory BAT/BCT mandate embodied in the Permit, operators/owners must consistently engage in a multi-prong compliance strategy. This common sense strategy includes three independent, but mutual-reinforcing actions: i) planning and design,

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<sup>9</sup> Toxic pollutants are listed at 40 C.F.R. § 401.15 and include copper, lead and zinc, among others.

<sup>10</sup> Conventional pollutants include Total Suspended Solids, Oil and Gas, pH, biochemical oxygen demand and fecal coliform. 40 C.F.R. § 401.16. All other pollutants are either toxic or non-conventional.

ii) on-the-ground implementation, and iii) monitoring and corrective action. Each of the three prongs is a necessary condition for compliance with the Permit and Act. Without executive planning and design, a facility's staff is highly unlikely to implement BMPs that address the pollutant sources on site. Without consistent and reliable on-the-ground implementation, no amount of expert planning will prevent and reduce pollutants in stormwater discharges. And failures to collect data leaves an owner/operator without essential information about the efficacy of pollution control measures, and prevents the owner/operator from taking effective corrective actions. Compliance does necessitate that each prong be completed perfectly, but all must be consistently and sincerely pursued.

The Permit's principal mechanisms for ascertaining compliance with the Act's BAT/BCT mandate, therefore, are to require both the preparation and implementation of a comprehensive SWPPP that accurately evaluates the site's pollutant sources and describes Best Management Practices ("BMPs") designed to prevent and reduce polluted runoff; and the development and implementation of a Monitoring and Reporting Program ("M&RP") that emphasizes the collection and analysis of stormwater discharges to inform owners/operators regarding BMP effectiveness.

Specifically, the Permit requires facility owners/operators to adhere to the following requirements: i) submit an NOI certifying the type(s) of activity undertaken at a facility, and committing the operator to comply with the terms and conditions of the Permit; ii) eliminate unauthorized non-storm water discharges;<sup>11</sup> iii) develop a comprehensive SWPPP that assesses sources of pollutants and describes BMPs that will reduce or prevent pollutants in storm water discharges; iv) monitor, sample and/or analyze storm water discharges and authorized non-storm water discharges; and v) file complete and accurate Annual Reports by July 15 of each year, in which the owner/operator provides basic facility details (e.g. SIC Code(s)), summarizes the past year's industrial activities, reports on corrective actions taken in response to sampling/analysis data, and certifies compliance with the terms and conditions of the Permit.

All facilities must analyze each stormwater sample for three sets of pollutants—basic parameters, industry-specific parameters, and site-specific parameters. Basic parameters are the standard pollutants every industrial facility must test for, which are Total Suspended Solids ("TSS"), pH, Specific Conductance ("SC")<sup>12</sup>, and either Total Organic Carbon ("TOC") or Oil and Grease ("O&G"). 1997 Permit, Section B(5)(c)(i); 2015 Permit, Sections XI(B)(6)(a)-(b). Industry-specific parameters are set in relationship to SIC codes and include pollutants commonly associated with specific industrial operations. 1997 Permit, Section B(5)(c)(iii); 2015 Permit, Section XI(B)(6)(d). Lastly, site-specific parameters are those pollutants specifically associated with processes and activities at a specific facility. 1997 Permit, Section B(5)(c)(ii); 2015 Permit, Section XI(B)(6)(c).

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<sup>11</sup> Discharge Prohibition A(1) of the 1997 Permit and Discharge Prohibition III(B) of the 2015 Permit prohibit the discharge of materials other than storm water (defined as non-storm water discharges) that discharge either directly or indirectly to waters of the United States. Discharge Prohibition A(2) of the 1997 Permit and Discharge Prohibition III(C) of the 2015 Permit prohibit storm water discharges and authorized non-storm water discharges that cause or threaten to cause pollution, contamination, or nuisance.

<sup>12</sup> The 2015 Permit does not require facilities to analyze samples for Specific Conductance.

Facility owners and operators must then compare analytical data from stormwater sampling to numeric values (“Benchmarks”) published by the EPA that serve as objective measures for evaluating whether a facility’s BMPs achieve the statutory BAT/BCT standards of the Act. *See United States Environmental Protection Agency NPDES Multi-Sector General Permit for Storm Water Discharges Associated with Industrial Activity*, 80 Fed. Reg. 34,403, 34,405 (June 16, 2015); MSGP, 73 Fed. Reg. 56,572, 56,574 (Sept. 29, 2008); MSGP, 65 Fed. Reg. 64,746, 64,766-67 (Oct. 30, 2000) (as modified effective May 9, 2009). Under certain conditions, a facility will also be required to compare analytical data to limits (both numeric and narrative) established elsewhere, including in the Basin Plan and the Criteria for Priority Toxic Pollutants in the State of California, 40 C.F.R. § 131.38 (“CTR”).<sup>13</sup>

The 1997 Permit embodied an “iterative” approach whereby the analyses of storm water samples would inform a permittee as to the efficacy of its BMPs, who would then voluntarily revise BMPs so as to reduce pollutant concentrations to within numeric or narrative limits. In response to a widespread industry practice of ignoring and/or avoiding the flexible requirements of the 1997 Permit, the State Board established numeric action levels (“NALs”) and a compulsory BMP-review process in the 2015 Permit. *See* 2015 Permit Factsheet at 55-60. Under the 2015 Permit, the exceedance of a NAL triggers a requirement under which dischargers must prepare various Exceedance Response Actions (“ERAs”), i.e. comprehensive technical assessments of pollutants on site, design and implement improved and/or new BMPs, and revise the facility SWPPP accordingly. 2015 Permit, Section XII.

## B. Citizen Enforcement

In designing the Act, Congress acknowledged “the Government simply is not equipped to take court action against the numerous violations [...] likely to occur [under the Act].” 116 Cong. Rec. 33,104 (1970) (statement of Sen. Hart).<sup>14</sup> In anticipating this challenge, Congress crafted Section 505 to encourage citizen plaintiffs to act as private attorney’s general. Citizen plaintiffs, therefore, fill a critical social role by enforcing the Act’s mandate and are “welcomed participants in the vindication of environmental interests.” *Friends of the Earth v. Carey*, 535 F.2d 165, 172 (2nd Cir. 1976).

Citizen plaintiffs also fill an essential economic role. Water pollution results in inefficient economic outcomes caused by market failures that are frequently associated with common pool resources like surface waters and oceans. Enforcement actions under Section 505 help correct these market failures by forcing firms to internalize the social welfare impacts (i.e. costs) of water pollution that would otherwise be borne by society. Society at large pays handsomely when business owners fail to operate efficiently. The most common costs are associated with human illness (health care costs, lost productivity, etc.), habitat loss, ecosystem service disruption (e.g. clean irrigation water for agriculture), wildlife disturbances, and

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<sup>13</sup> Industrial storm water discharges must strictly comply with water quality standards, including those criteria listed in the applicable basin plan. *See Defenders of Wildlife v. Browner*, 191 F.3d 1159, 1166-67 (9th Cir. 1999).

<sup>14</sup> *See also* 116 Cong. Rec. 33,104 (1970) (statement of Sen. Muskie) “I think it is too much to presume that, however well staffed or well intentioned these enforcement agencies are, they will be able to monitor the potential violations of all the requirements contained in the implementation plans that will be filed under this act, all the other requirements of the act, and the responses of the enforcement officers to their duties.”



detrimental impacts to tourism.

C. Standards Applicable Under the Act and Permit<sup>15</sup>

As described above, the Act prohibits discharging pollutants to waters of the United States from a point source, except as permitted under an NPDES permit, such as California's General Industrial Permit. *See* 33 U.S.C. §§ 1311(a), 1342; 40 C.F.R. § 122.26(c)(1). The 1997 Permit and the 2015 Permit both require that dischargers meet all applicable provisions of the Act's Sections 301 and 402.

1. *Effluent Limitation*

The Permit prohibits any discharges of storm water associated with industrial activities or authorized non-storm water discharges that have not been subjected to BAT or BCT. 1997 Permit, Section B(3), 2015 Permit, Section V(A); *see also* 1997 Permit, Section A(8); 2015 Permit, Section X(H). Benchmarks and/or NALs established for basic- and industry-specific pollutants discharged from the Facility, and for which Lompoc must analyze storm water samples, are summarized below at TABLE 1.

TABLE 1  
BENCHMARK AND NAL VALUES APPLICABLE TO THE FACILITY

PARAMETER/ POLLUTANT	EPA BENCHMARK	ANNUAL NAL	INSTANTANEOUS MAXIMUM NAL
pH	6.0-9.0 s.u.	n/a	6.0-9.0 s.u.
TSS	100 mg/L	100 mg/L	400 mg/L
O&G	15 mg/L	15 mg/L	25 mg/L
COD	120 mg/L	120 mg/L	n/a
SC	200 uhmos/cm	n/a	n/a

2. *Receiving Water Limitations*

The Permit prohibits storm water discharges and authorized non-storm water discharges that cause or contribute to an exceedance of an applicable Water Quality Standard ("WQS"), as defined in, *inter alia*, the Basin Plan.<sup>16</sup> 1997 Permit, Section C(2); 2015 Permit, Section VI(A). Discharges that contain pollutants in excess of an applicable WQS violate these Receiving Water Limitations. The Receiving Water Limitations also prohibits storm water discharge (and authorized non-storm water discharges) to surface waters that adversely impact human health or the environment. 1997 Permit, Section C(1); 2015 Permit, Section VI(B). Thus, any discharge that contains pollutant concentrations exceeding levels that adversely impact aquatic species, the environment, and/or human health constitute violations of the Permit.

3. *Discharge Prohibitions*

The Permit also contains an outright prohibition on the discharge of materials other than

<sup>15</sup> The description of standards applicable under the Act and Permit are not intended as a comprehensive recitation of every potential requirement, nor a complete description of each standard addressed. Rather, this section of the Notice Letter is intended to summarize the standards most relevant to facilities like those operated by Lompoc.

<sup>16</sup> Industrial storm water discharges must strictly comply with water quality standards, including those criteria listed in the applicable basin plan. *See Defenders of Wildlife v. Browner*, 191 F.3d 1159, 1166-67 (9th Cir. 1999).

storm water (“non-storm water discharges” or “NSWD”) directly or indirectly to waters of the United States. 1997 Permit, Section A(1); 2015 Permit, Section III(B). The Discharge Prohibitions also proscribe storm water discharges that cause or threaten to cause pollution or contamination. 1997 Permit, Section A(2); 2015 Permit, Section III(C).

#### 4. *Monitoring and Reporting Requirements*

The Permit requires facility operators to develop and implement a storm water M&RP prior to conducting, and in order to continue, industrial activities. The primary objective of the M&RP is to detect and measure concentrations of pollutants in a facility’s storm water discharges to ensure BMPs are effective in maintaining compliance with the Permit’s Effluent Limitations, Receiving Water Limitations and Discharge Prohibitions. *See* 1997 Permit, Section B(2); *see also* 2015 Permit, Section X(I). A legally adequate M&RP ensures that BMPs achieve BAT/BCT, and is evaluated at least annually.

The principal M&RP requirements imposed by the 1997 Permit and 2015 Permit are substantially identical. *Compare* 1997 Permit, Sections B(3)-(16) to 2015 Permit, Sections X(I) and XI(A)-(D). The 1997 Permit required facilities conduct quarterly visual observations of all drainage areas for the presence of authorized and unauthorized non-storm water discharges. 1997 Permit, Section B(3). The 2015 Permit increased the frequency of visual observations to monthly, and requires that observations be completed at the same time samples are collected. 2015 Permit, Section XI(A). The Permit requires that facilities complete visual observations of storm water discharges from one event per month during the wet season. 1997 Permit, Section B(4); 2015 Permit, Section XI(A)(2). Dischargers must document observations, and any responses taken to address problems observed, including revisions made to the SWPPP. 1997 Permit, Sections B(3)-(4); 2015 Permit, Sections XI(A)(2)-(3). The Permit requires facilities to collect samples of storm water discharges from each of the discharge locations from at least two storm events under the 1997 Permit, and at least 4 storm events under the 2015 Permit<sup>17</sup>—taking care that water collected is representative of the discharge from each discharge point. 1997 Permit, Sections B(5), (7); 2015 Permit, Sections XI(B)(1)-(5). All sampling analysis data must be submitted via SMARTS within thirty (30) days of obtaining results. 2015 Permit, Section XI(B)(11).

### **III. Violations of the Clean Water Act and the Storm Water Permit**

In the years since enrolling in the Permit, the City has failed to carry out its obligations under both the Permit and Act. As discussed in further detail below, the Facility is in ongoing violation of the Permit, and violations span both the 1997 Permit and 2015 Permit. Specifically, the Facility has consistently discharged pollutants in violation of the Permit’s Effluent Limitations, Receiving Water Limitations, and Discharge Prohibitions; failed to develop a legally adequate M&RP; failed to develop, implement, and/or update a legally adequate SWPPP to ensure the development and implementation of BMPs that achieve BAT/BCT; and failed to submit accurate and complete Annual Reports. Lompoc is subject to civil penalties for all

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<sup>17</sup> The 2015 Permit requires facilities to collect samples from each discharge location from two storm events within the first half of each reporting year (July 1-Dec. 31) and two storm events from the second half of each reporting year (Jan. 1-Jun 30).

violations of the Clean Water Act detailed below occurring since April 26, 2012.

A. Discharges of Storm Water in Violation of Effluent Limitations

Information available to CLAWS indicates that the Facility has failed and continues to fail to reduce or prevent pollutants associated with industrial activity in storm water discharges through implementation of BMPs that achieve BAT/BCT. The Facility has an extraordinarily consistent pattern of exceedances of multiple parameters since at least 2003. In fact, according to information available to CLAWS, the Facility has discharged polluted storm water in violation of the Permit's Effluent Limitations during every single rain event over the course of the last five years.

As noted above, Benchmarks are relevant and objective standards for evaluating whether a permittee's BMPs achieve compliance with BAT/BCT as required by the Permit's Effluent Limitations. The data summarized in TABLE 2 (below) establish that Lompoc has discharged and continues to discharge pollutants well in excess of Benchmark values.

**TABLE 2**  
**STORMWATER DATA FROM QSE'S BETWEEN 2012 AND 2017**

LINE	SAMPLE DATE	PARAMETER	OBSERVED CONCENTRATION	BENCHMARK/ NAL	DISCHARGE POINT
<b>2012</b>					
1	10.10.12	TSS	234 mg/L	100 mg/L	1
2	10.10.12	TSS	232 mg/L	100 mg/L	2
3	10.10.12	TSS	164 mg/L	100 mg/L	3
4	10.10.12	COD	347 mg/L	120 mg/L	1
5	10.10.12	COD	314 mg/L	120 mg/L	2
6	10.10.12	COD	336 mg/L	120 mg/L	3
7	10.10.12	SC	326 uhmos/cm	200 uhmos/cm	1
8	10.10.12	SC	359 uhmos/cm	200 uhmos/cm	2
9	10.10.12	SC	270 uhmos/cm	200 uhmos/cm	3
10	11.09.12	TSS	146 mg/L	100 mg/L	1
11	11.09.12	TSS	238 mg/L	100 mg/L	2
12	11.09.12	TSS	530 mg/L	100 mg/L	3
13	11.09.12	COD	130 mg/L	120 mg/L	1
14	11.09.12	COD	164 mg/L	120 mg/L	2
15	11.09.12	COD	319 mg/L	120 mg/L	3
<b>2013</b>					
<i>The Facility did not collect or analyze samples during 2013.</i>					
<b>2014</b>					
16	02.06.14	TSS	150 mg/L	100 mg/L	1
17	02.06.14	TSS	250 mg/L	100 mg/L	3
18	02.06.14	COD	289 mg/L	120 mg/L	1
19	02.06.14	COD	132 mg/L	120 mg/L	2
20	02.06.14	COD	492 mg/L	120 mg/L	3
21	02.06.14	SC	633 uhmos/cm	200 uhmos/cm	3
22	12.11.14	TSS	257 mg/L	100 mg/L	1
23	12.11.14	TSS	114 mg/L	100 mg/L	2
24	12.11.14	TSS	273 mg/L	100 mg/L	3
25	12.11.14	COD	264 mg/L	120 mg/L	1

NOTICE OF INTENT TO SUE  
LOMPOC CORPORATE YARD

26	12.11.14	COD	185 mg/L	120 mg/L	2
27	12.11.14	COD	477 mg/L	120 mg/L	3
28	12.11.14	SC	220 uhmos/cm	200 uhmos/cm	1
29	12.11.14	SC	230 uhmos/cm	200 uhmos/cm	3
<b>2015</b>					
30	10.01.15	TSS	341 mg/L	100 mg/L	1
31	10.01.15	TSS	355 mg/L	100 mg/L	2
32	10.01.15	TSS	<b>987 mg/L</b>	100 mg/L	3
33	10.01.15	COD	586 mg/L	120 mg/L	1
34	10.01.15	COD	648 mg/L	120 mg/L	2
35	10.01.15	COD	<b>1101 mg/L</b>	120 mg/L	3
36	10.01.15	SC	482 uhmos/cm	200 uhmos/cm	1
37	10.01.15	SC	504 uhmos/cm	200 uhmos/cm	2
38	10.01.15	SC	<b>620 uhmos/cm</b>	200 uhmos/cm	3
39	11.02.15	TSS	266 mg/L	100 mg/L	1
40	11.02.15	TSS	390 mg/L	100 mg/L	2
41	11.02.15	TSS	<b>592 mg/L</b>	100 mg/L	3
42	11.02.15	COD	232 mg/L	120 mg/L	1
43	11.02.15	COD	326 mg/L	120 mg/L	2
44	11.02.15	COD	491 mg/L	120 mg/L	3
<b>2016</b>					
45	01.19.16	TSS	174 mg/L	100 mg/L	1
46	01.19.16	TSS	284 mg/L	100 mg/L	2
47	01.19.16	TSS	108 mg/L	100 mg/L	3
48	01.19.16	COD	144 mg/L	120 mg/L	1
49	01.19.16	COD	238 mg/L	120 mg/L	2
50	01.19.16	COD	133 mg/L	120 mg/L	3
51	03.11.16	TSS	<b>512 mg/L</b>	100 mg/L	1
52	03.11.16	TSS	160 mg/L	100 mg/L	2
53	03.11.16	TSS	153 mg/L	100 mg/L	3
54	03.11.16	COD	<b>227 mg/L</b>	120 mg/L	1
55	12.15.16	TSS	100 mg/L	100 mg/L	3
56	12.15.16	COD	149 mg/L	120 mg/L	1
57	12.15.16	COD	197 mg/L	120 mg/L	2
58	12.15.16	COD	168 mg/L	120 mg/L	3
59	12.30.16	TSS	168 mg/L	100 mg/L	2
60	12.30.16	TSS	120 mg/L	100 mg/L	3
61	12.30.16	COD	161 mg/L	120 mg/L	2
62	12.30.16	COD	168 mg/L	120 mg/L	3
63	12.30.16	pH	4.56 S.U.	6.0-9.0 S.U	2
<b>2017</b>					
64	02.03.17	TSS	240 mg/L	100 mg/L	2
65	02.03.17	TSS	240 mg/L	100 mg/L	3
66	02.03.17	COD	130 mg/L	120 mg/L	2
67	02.03.17	COD	130 mg/L	120 mg/L	3

These data demonstrate that the Facility has failed and continues to fail to develop or implement BMPs that achieve compliance with the Act's BAT/BCT mandates. But the results of storm water analysis detailed in TABLE 2 tell a larger story—between 2012 and 2017 the City consistently exhibited a complete disregard for the iterative process of planning, on-the-ground implementation and corrective action envisioned by the Permit and required for compliance with the Act. For example, the Facility's TSS exceedances during 2017 exceed the majority of

concentrations taken in 2016 and 2015. Rather than showing a trend toward improved pollution control, the City backslides on this parameter.

The City's pattern of failing to take corrective action is further illustrated by data summarized in 2013 by the Regional Board in a letter reproduced below in TABLE 3.

**TABLE 3**  
**RB3'S SUMMARY OF FACILITY'S STORMWATER POLLUTION BETWEEN 2003 AND 2012**

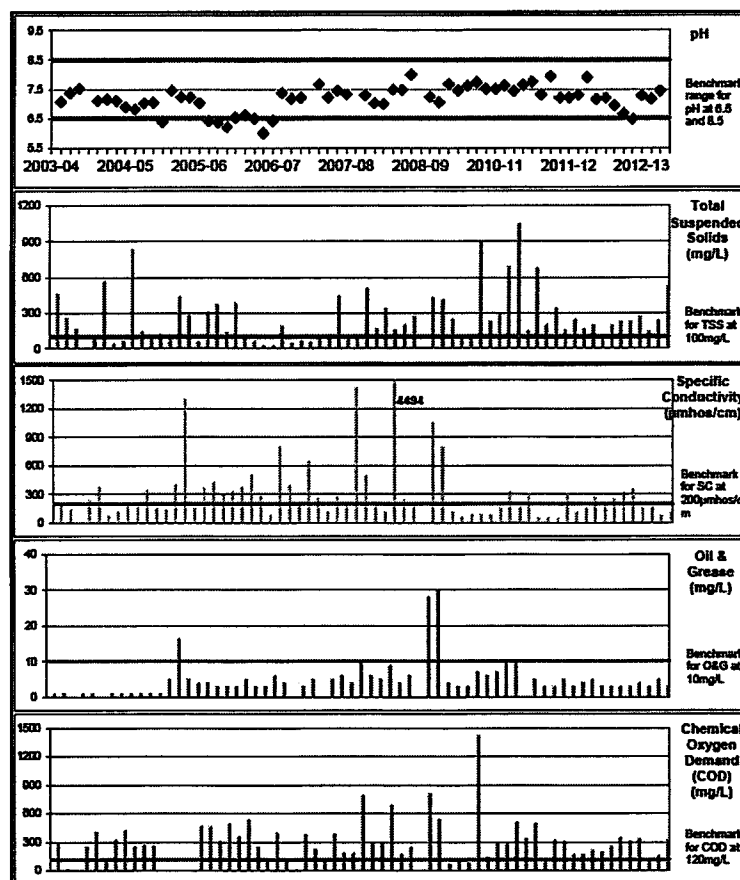


TABLE 3 evidences some particularly troubling facts. First, the City's pattern of disregarding its contribution of pollutants to the Receiving Waters extends as far back as 2003, spanning not just the 2012 to 2017 that is the focus of this letter. Second, TABLE 3 establishes that the City had specific, actual knowledge of serious problems that required corrective action at the Yard long ago. Third, the Facility's recent discharges were *as or more* polluted than any discharge over the past 15 years, *see e.g.* data from October 1, 2015, specifically at sample point 3 on lines 32, 35 and 38. Lastly, incredibly high readings of SC up until 2015, at which point the Facility ceased analyzing stormwater for this parameter, provides strong evidence of metal(s) in discharges.

Against this evidentiary backdrop, it is especially concerning that the Facility's Annual Site Evaluation, completed by Dirk Ishiwata on 6/29/2016, indicates that the City has not changed any BMPs since 9/25/2015 and does not intend to take any corrective action in response

to the data on lines 30-50 above (see IMAGE 1 below). In short, City has been in violation of the Permit's Effluent Limitations since at least 2003, and has failed and continues to fail to develop or implement BMPs that achieve compliance with the Act.

**IMAGE 1**  
LOMPOC'S FAILURE TO SINCERELY ENGAGE IN TAKING CORRECTIVE ACTION

<p>Are there new BMPs or changes to BMPs that are indicated based on records and experiences during the previous permit year? If yes, identify the new or changed BMPs in column 3.</p>	<p>✓</p>	
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Each time the Facility discharges polluted storm water in violation of Effluent Limitation B(3) of the 1997 Permit and Effluent Limitation V.A of the 2015 Permit is a separate and distinct violation of the Storm Water Permit and Section 301(a) of the Act, 33 U.S.C. § 1311(a).

CLAWS puts Lompoc on notice that it violates the Effluent Limitations every time it discharges storm water without adequate BMPs. *See Exhibit 2* (setting forth dates of significant rain events).<sup>18</sup> These discharge violations are ongoing and will continue every time the Facility discharges polluted storm water without developing and/or implementing BMPs consistent with BAT/BCT standards. CLAWS may supplement and update TABLE 2 as additional data becomes available. Lompoc is subject to civil penalties for all violations of the Clean Water Act occurring since April 26, 2012.

CLAWS puts Lompoc on notice that the 2015 Permit Effluent Limitation V.A is a separate, independent requirement with which all facilities must comply, and that carrying out the iterative process triggered by exceedances of NALs does not amount to compliance with Effluent Limitation V.A. While exceedances of a NAL demonstrate that a facility has failed and continues to fail to implement pollution prevention measures required by the Permit, the State Board did not intend for NALs to represent technology based criteria relevant to determining whether an industrial facility has implemented BMPs that achieve BAT/BCT.<sup>19</sup>

**B. Discharges of Storm Water in Violation of Receiving Water Limitations and Discharge Prohibitions**

As detailed above, the Permit's Receiving Water Limitations prohibit storm water discharge and authorized non-storm water discharges to surface waters that adversely impact human health or the environment. 1997 Permit, Section C(1); 2015 Permit, Section VI(B). Because Benchmarks are the pollutant concentrations above which EPA determined represent a

<sup>18</sup> A significant rain event is defined by EPA as a rainfall event generating 0.1 inches or more of rainfall, which generally results in discharges at a typical industrial facility.

<sup>19</sup> "The NALs are not intended to serve as technology-based or water quality-based numeric effluent limitations. The NALs are not derived directly from either BAT/BCT requirements or receiving water objectives. NAL exceedances defined in [the 2015] Permit are not, in and of themselves, violations of [the 2015] Permit." 2015 Permit, Finding 63, p. 11. The NALs do, however, trigger reporting requirements. *See* 2015 Permit, Section XII.

level of concern (i.e. a concentration at which a storm water discharge could potentially impair, or contribute to impairing, water quality or affect human health from ingestion of water of fish), each of the violations detailed above in TABLE 2 constitute independent violations of the Permit's Receiving Water Limitations.

CLAWS puts the City on notice that the 2015 Permit Receiving Water Limitations are separate, independent requirements with which the Facility must comply, and that carrying out the iterative process triggered by exceedances of the NALs do not amount to compliance with the Receiving Water Limitations. While exceedances of the NALs demonstrate that a facility is among the worst performing facilities in the State, the NALs do not represent water quality based criteria relevant to determining whether an industrial facility has caused or contributed to an exceedance of the Permit's Receiving Water Limitations.<sup>20</sup> The violations of the Receiving Water Limitations described in this Notice Letter are ongoing even if the City submits an adequate Exceedance Response Action Plan pursuant to Section XII of the 2015 Permit.

Finally, each violation of the Receiving Water Limitations described above constitutes an independent violation of the Permit's Discharge Prohibition by causing and threatening to cause pollution, and contamination of the Receiving Waters. *See* 1997 Permit, Section A(1); 2015 Permit, Section III(C). CLAWS puts the City on notice that the Permit's Receiving Water Limitations and Discharge Prohibitions are violated each time storm water discharges from the Facility. *See e.g.*, Exhibit 2. Each time the Facility discharges polluted storm water in violation of the Permit's Receiving Water Limitations and Discharge Prohibitions is a separate and distinct violation of the Storm Water Permit and Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a). These discharge violations are ongoing and will continue every time the Yard discharges polluted storm water without developing and/or implementing BMPs that achieve compliance with the BAT/BCT standards. CLAWS will update the dates of violations when additional information and data become available. The City is subject to civil penalties for all violations of the Act occurring since April 26, 2012.

C. Failure to Prepare, Implement, Review and Update an Adequate Storm Water Pollution Prevention Plan

As discussed above, the initial step to compliance with the Permit and Act is planning. Recognizing the importance of planning, the State Board has designated the SWPPP as the cornerstone of compliance with the NPDES Permit. Sections A(1) and E(2) of the 1997 Permit require dischargers to develop and implement a SWPPP that meet all of the requirements prior to beginning industrial activities. The objective of the SWPPP is to identify and evaluate sources of pollutants associated with industrial activities that may affect the quality of storm water discharges (and authorized non-stormwater discharges) from a facility, and then develop BMPs to reduce or prevent pollutant concentrations in storm water discharges. 1997 Permit, Section A(2), 2015 Permit, Section X(C). BMPs described in a SWPPP must, upon full implementation, be designed to achieve compliance with the Permit's discharge requirements. To ensure ongoing compliance with the Permit, the SWPPP must be evaluated and revised as necessary. 1997

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<sup>20</sup> "The NALs are not intended to serve as technology-based or water quality-based numeric effluent limitations. The NALs are not derived directly from either BAT/BCT requirements or receiving water objectives. NAL exceedances defined in [the 2015] Permit are not, in and of themselves, violations of [the 2015] Permit." 2015 Permit, Finding 63, p. 11. The NALs do, however, trigger reporting requirements. *See* 2015 Permit, Section XII.

Permit, Sections A(9)-(10), 2015 Permit, Section X(B). Failure to develop or implement an adequate SWPPP, or update or revise an existing SWPPP as required, is a violation of the General Permit. 2015 Permit Factsheet I(1).

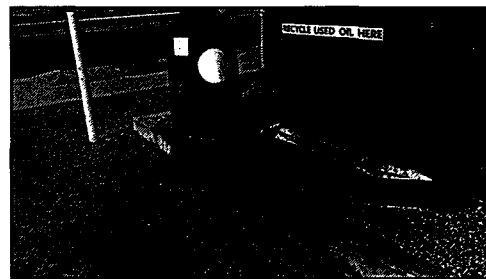
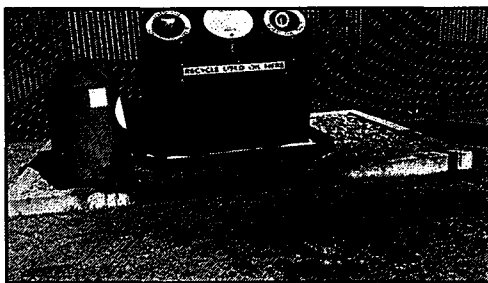
Sections A(3)-A(10) of the 1997 Permit set forth the requirements for a SWPPP. The SWPPP is an executive planning document, and includes: a written assessment of potential sources of pollutants in stormwater runoff, control measures that will be implemented at the facility to minimize the discharge of these pollutants in runoff from the site, and a description of the monitoring program that will be employed to determine the effectiveness of the planning process and guide corrective actions. Sections X(D) – X(I) of the 2015 Permit set forth essentially the same SWPPP requirements, except that all dischargers are now required to develop and implement a set of minimum BMPs, as well as any advanced BMPs as necessary to achieve BAT/BCT. As described above, a suit of effective BMPs serve as the basis for compliance with the Permit's technology-based effluent limitations. *See* 2015 Permit, Section X(H). The 2015 Permit further requires a more comprehensive assessment of potential pollutant sources than the 1997 Permit; more specific BMP descriptions; and an additional BMP summary table identifying each identified area of industrial activity, the associated industrial pollutant sources, the industrial pollutants, and the BMPs being implemented. 2015 Permit, Sections X(G)(2), (4), (5).

The first legal deficiency in the Yard's SWPPP is a failure to describe and assess potential pollutant sources. The only source specifically addressed in Table 2.1, which serves as the "basis for selecting BMPs," is "Fleet Repairs." *See* SWPPP Section 2.3.1 at page 12. The SWPPP fails to include descriptions or assessments for any other pollutant sources. Among those potential pollutant sources that are most conspicuously absent include the "Metal Recycling" area, the "Vehicle Wash" area, and "Oil Recycling," all of which appear on the site map.

The Site Map itself is legally deficient. The SWPPP explicitly excludes both "locations where significant spill or leaks have occurred" and "material handling and processing areas." However, it is clear from correspondence with RB3, and corroborated by CLAWS during its own reconnaissance visit on 3/31/2017, that both activities are part of the Yard's industrial activities. *See e.g.* IMAGES 2 & 3.

### IMAGES 2 & 3

PAVEMENT STAINS INDICATES ROUTINE SPILLS/LEAKS OF USED OIL AT THE OIL RECYCLING PLATFORM.



Most crucially, the SWPPP has not been adequately revised in response to storm water data or the various inspection reports and notices of violation from the Regional Board. The images above are reminiscent of notes from an inspection report completed by RB3 staff on



1/9/2003. In that inspection reported, the Regional Board notes that waste oil drums were being stored without covers, and that oil stains on the ground indicated that basic housekeeping BMPs (e.g. prevent spills/leaks, clean up spills/leaks) were not being implemented. Again in a 2012 Compliance Audit, the Regional Board found that the City's BMP implementation deficient. In that communication, the Regional Board noted that the City had promised to address deficiencies numerous times in prior years, and that the same failures continued at the site. RB3 specifically admonishes Laurel Barcelona of the City to "keep detailed records of actions taken to correct deficiencies, and the results of those actions, in order to demonstrate that deficiencies have been corrected." However, the SWPPP prepared in 2015 does not contain detailed explanations for if/how operations had changed to address the specific problems noted by the Regional Board.

In fact, even the City's recent ERA Level 1 reports and subsequent BMP revisions are legally inadequate. For example, the 2012 audit notes that staff "observed a straw wattle or fiber roll placed around the drain inlets and held in place with a concrete brick. Fiber rolls are designed to work best when staked down and keyed-in on bare earth to distribute sheet flows and reduce points of concentrated flow. When placed on hard surfaces water, sediment, and non-visible pollutants can seep under and allow visible and non-visible pollutants to bypass the fiber rolls and enter the discharge inlets. Oxygen demanding chemicals can also migrate past inefficient BMPs." On CLAWS' 3/31/2017 site reconnaissance, however, straw wattles held in place by sand bags were the only observable BMPs at one of the Facility's most troublesome discharge points. The City's failure to undertake adequate corrective actions is further supported by the fact that discharges continue to exceed TSS and COD (e.g. TABLE 2, lines 59-67) limits even after the BMPs crafted in the ERA process were implemented.

The City has failed and continues to fail to adequately develop, implement, and/or revise a SWPPP, in violation of SWPPP requirements of the Permit. Every day the Facility operates without an adequately developed, implemented, and/or properly revised SWPPP is a separate and distinct violation of the Permit and Act. These violations are ongoing, and CLAWS will include additional violations when information becomes available. The City is subject to civil penalties for all violations of the Clean Water Act occurring since April 26, 2012.

D. Failure to Secure Complete Permit Coverage; Violations of Permit's Monitoring and Reporting Requirements

The City's permit registration documents and Annual Reports indicate that the Facility is categorized under SIC Code 4212 (Local Trucking Without Storage). The Facility, however, serves numerous industrial functions outside those included under SIC Code 4212. For example, the City acknowledges various storage activities, including the storage of road base, asphalt, concrete, paint, trees, pesticides/fertilizers, etc. Further, CLAWS is aware of additional industrial activities including, but not limited to, metal recycling, vehicle maintenance, nursery services, and oil recycling. Each of these activities must be disclosed to the State of California and must factor into the City's development and implementation of a compliance plan. CLAWS' greatest concern in this regard is that without wholly defining the nature of industrial activities being conducted on site, the City is very likely failing to comply with the Permit's monitoring requirements. Specifically, the City has likely violated and continues to violate the monitoring requirements regarding which parameters must be analyzed. As noted above, high SC

exceedances indicate the presence of metals in stormwater discharges, but to date the Facility has not tested a single sample for metal constituents.

**E. Failure to File True and Correct Annual Reports**

The City has also failed, and continues to fail, to submit complete and accurate Annual Reports that comply with the Permit's reporting requirements. For example, in each Annual Report filed since the filing of 2012, Lompoc has certified that: (1) a complete Annual Comprehensive Site Compliance Evaluation was done pursuant to Section A(9) of the Permit; (2) the SWPPP's BMPs address existing potential pollutant sources and additional BMPs are not needed; and (3) the SWPPP complies with the Permit, or will otherwise be revised to achieve compliance. However, information available to CLAWS, as outlined in this Notice Letter, indicates that these certifications are erroneous. For example, as discussed above, storm water samples collected from the Facility contain concentrations of pollutants above EPA's Benchmarks, thus demonstrating that the SWPPP's BMPs do not adequately address existing potential pollutant sources. Further, the Facility's SWPPP does not include certain elements required by the Storm Water Permit, and thus it is erroneous to certify that the SWPPP complies with the Storm Water Permit.

In addition, the facility operator must report any noncompliance with the Permit at the time an Annual Report is submitted, including 1) a description of the noncompliance and its cause, 2) the period of noncompliance, 3) if the noncompliance has not been corrected, the anticipated time it is expected to continue, and 4) steps taken or planned to reduce and prevent recurrence of the noncompliance. Storm Water Permit, Section C(11)(d). Lompoc has not reported non-compliance or corrective actions as required.

As such, the City is in daily violation of the Permit. Every day the City conducts operations at the Facility without reporting as required by the Permit is a separate and distinct violation of the Permit and Section 301(a) of the Act, 33 U.S.C. §1311(a). The City has been in daily and continuous violation of the Storm Water Permit's reporting requirements every day since at least April 26, 2012. These violations are ongoing, and CLAWS will include additional violations when information becomes available, including specifically violations of the 2015 Permit reporting requirements. *See* 2015 Permit, Sections XII, XVI.

**IV. Persons Responsible for the Violations**

CLAWS puts the City on notice that it is the entity responsible for the violations of the Act described above. If additional entities or persons are identified as also being responsible for the violations described herein, CLAWS intends to include those entities or persons in this action.

**V. Name and Address of Noticing Party**

Committees for Land, Air, Water and Species  
Post Office Box 92233  
Santa Barbara, CA 93190

**VI. Counsel**

Please direct all communications to lead legal counsel retained by CLAWS for this matter:

Jesse C. Swanhuysen  
Anacapa Law Group, Inc.  
508 East Haley Street  
Santa Barbara, CA 93103  
jswanhuysen@anacapalawgroup.com

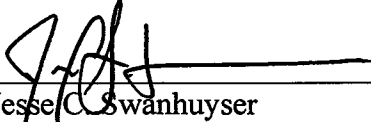
## VII. Penalties

Pursuant to Section 309(d) of the Act and the Adjustment of Civil Monetary Penalties for Inflation, each separate violation of the Act subjects the violator to a penalty of up to \$51,570 per day per violation for violations occurring after November 2, 2015; and up to \$37,500 per day per violation for violations occurring prior to and including November 2, 2015. *See* 33 U.S.C. §§ 1319(d) and 1365(a); 40 C.F.R. § 19.4. In addition to civil penalties, CLAWS will seek injunctive relief to prevent further violations of the Act pursuant to Sections 505(a) and (d). *See* 33 U.S.C. §§ 1365(a), (d). Lastly, Section 505(d) of the Act permits prevailing parties to recover costs and fees, including attorneys' fees. *See* 33 U.S.C. § 1365(d).

CLAWS believes this Notice Letter sufficiently states grounds for filing suit. CLAWS intends to file a citizen suit under Section 505(a) of the Act against the City, the Facility and its agents for the above-referenced violations upon the expiration of the 60-day notice period. However, during the 60-day notice period, CLAWS is willing to discuss effective remedies for the violations noted in this letter. If you wish to pursue such discussions in the absence of litigation, you should initiate those discussions within the next 20 days so that they may be completed before the end of the 60-day notice period.

Sincerely,

ANACAPA LAW GROUP, INC.

  
\_\_\_\_\_  
Jesse C. Swanhuysen  
Lawyer for CLAWS

### Attachment A – Rain Event Summary for the Facility: 2012 through 2017

Cc: Jeff Sessions, U.S. Department of Justice  
Scott Pruitt, U.S. Environmental Protection Agency  
Alexis Strauss, U.S. Environmental Protection Agency (Region IX)  
Thomas Howard, State Water Resources Control Board  
John Robertson, Regional Water Quality Control Board (Region 3)

VIA U.S. CERTIFIED MAIL

Jeff Sessions, U.S. Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530-001

Scott Pruitt, Administrator  
U.S. Environmental Protection Agency  
William Jefferson Clinton Building  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

Alexis Strauss, Acting Regional Administrator  
U.S. Environmental Protection Agency Region IX  
75 Hawthorne Street  
San Francisco, California 94105

Thomas Howard, Executive Director  
State Water Resources Control Board  
P.O. Box 100  
Sacramento, California 95812-0100

John Robertson, Executive Officer  
Central Coast Regional Water Quality Control Board  
895 Aerovista Place, Suite 101  
SLO, California 93401-7906

**Exhibit A****STORM EVENT SUMMARY: April 2012-April 2017****Days with Rainfall above 0.10 inches**

[Source: [https://www.wunderground.com/history/airport/KLPC/2013/3/6/MonthlyHistory.html?req\\_city=Lompoc&req\\_state=CA&req\\_statename=California&reqdb.zip=93436&reqdb.magic=1&reqdb.wmo=99999&MR=1](https://www.wunderground.com/history/airport/KLPC/2013/3/6/MonthlyHistory.html?req_city=Lompoc&req_state=CA&req_statename=California&reqdb.zip=93436&reqdb.magic=1&reqdb.wmo=99999&MR=1)]

Date (mm/dd/yy)	Rainfall (inches)
04/25/12	0.46
11/09/12	0.13
11/17/12	0.37
12/01/12	0.12
12/02/12	0.31
12/12/12	0.11
12/15/12	0.10
12/22/12	0.20
12/23/12	0.10
12/24/12	0.10
12/26/12	0.16
12/29/12	0.42
01/05/13	0.15
01/06/13	0.43
02/08/13	0.36
02/19/13	0.18
03/07/13	0.16
03/08/13	0.50
03/12/13	0.12
03/13/13	0.43
03/31/13	0.15
10/28/13	0.11
10/29/13	0.16
11/20/13	1.51
11/29/13	0.16
12/07/13	0.11
01/29/14	0.11
02/02/14	0.45
02/06/14	0.34
02/07/14	0.57
02/08/14	0.26
02/26/14	0.29
02/28/14	0.50
03/01/14	0.63
03/02/14	0.11
03/26/14	0.12
03/31/14	0.20
04/01/14	0.16
04/02/14	0.13
04/25/14	0.10
10/31/14	0.95
11/01/14	0.10
12/02/14	1.18
12/03/14	0.17

12/11/14	1.10
12/12/14	0.84
12/15/14	0.20
12/16/14	0.77
01/10/15	0.33
01/11/15	0.39
04/07/15	0.13
04/25/15	0.13
05/14/15	0.15
07/19/15	1.25
11/02/15	0.57
11/09/15	0.30
11/15/15	0.22
12/11/15	0.26
12/13/15	0.14
12/19/15	0.25
12/21/15	0.10
12/22/15	0.28
01/05/16	0.92
01/06/16	0.57
01/07/16	0.35
01/19/16	0.21
01/31/16	0.84
03/05/16	0.51
03/06/16	0.16
03/07/16	0.76
03/11/16	0.60
04/08/16	0.24
04/09/16	0.83
10/15/16	0.10
10/27/16	0.20
10/28/16	0.59
11/20/16	0.98
11/26/16	0.53
11/27/16	0.24
12/09/16	0.26
12/15/16	0.46
12/16/16	0.23
02/26/17	0.12
03/05/17	0.17
03/21/17	0.51
03/25/17	0.13
04/18/17	0.13

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Anacapa Law Group, Inc.  
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Santa Barbara, CA 93103



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Jeff Sessions, U.S. Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530-001

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ENVIRONMENTAL DIVISION

17 MAY -4 P4:

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**MAY 02 2017**  
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**INSPECTED 14**